

## **Remarks**

Claims 1 through 24 are pending in the application. Claims 6, 20, and 23 were found to be allowable, if rewritten into independent claim format. Claim 24 was found to be allowable if rewritten to overcome the §112 rejection and placed into independent claim format.

Claim 1 to 5, 7 to 19, 22 and 24 were rejected, and the title, abstract, drawings and disclosure were objected to for the reasons discussed below.

## **Specification**

Applicants submit herewith a marked-up specification and substitute specification. Paragraph numbering and section titles have been included in these specifications for convenience; references in the description to the claims have been deleted; and the Abstract has been placed on a separate sheet. The title has also been rewritten.

In the Brief Description of the Drawings, the description of Fig. 2 has been amended to replace "A-A" with - - 2-2 - - to reflect that Fig. 2 is a cross-section taken along line 2-2 of amended Fig. 1.

No new matter has been added by these changes.

## **Drawings**

Fig 1. has been amended to replace the cross-section designation "A-A" with - - 2-2 - -.

The examiner objected to the drawings because they fail to show the details of the elements 1, 4, 5 to 7, and 16 as described in the specification.

Numerals 1 identifies a link plate and has been added to Figs. 1 and 2.

Numerals 4 identifies a fixing device and is used in Figs. 1, 2, and 4. A fixing device separably joins the link plate to a transverse means, and is specifically illustrated in Figs. 3 and 4. (Paragraphs 0044 and 0045 of the substitute specification.) Figs. 1 and 2 accurately reflect

locations of fixing device on the link plates 1. Figs. 3 and 4 have had the numeral 4 added to point to the entire depiction of the fixing device in those figures.

Numeral 5 identifies a lock which is part of the fixing device (paragraph 0045 of the substitute specification) and has a feed slope 13 (paragraph 0047 of the substitute specification) and is clearly depicted in Fig. 3. The locking device 5 receives an end of the transverse link 14, which has an open rectangular portion in its end, as seen in Fig. 8 at the right end of the transverse link 14. The left end is not as visible, but it is engaged with the lock 5 by pushing down and engaging the feed slope 13 to force the resilient locking means to twist outward against the torsional element 4 and then backward inward to fit into the rectangular opening in the transverse link end 14. Thus, Applicants respectfully submit that the lock 5 is adequately and accurately identified in the figures.

Numeral 6 identifies the torsional element, which are joined to the link plate 1 and the fixing device 4 and to the end region of the receptacle 7 (discussed below). Thus, the portion of the receptacle 7 that is essentially a part of the wall of the receptacle 7 is accurately and completely shown. Applicants respectfully submit that no changes to the drawings are necessary for this item.

Numeral 7 is a roughly triangularly-shaped receptacle joined to both the torsional elements 6 and they hold the fixing device 4 and extend from an inner wall toward an outer wall of the link plate 1. Thus, the receptacle is essentially a housing for the various working elements. Fig. 4 is accurate and Fig. 3 has had the numeral 7 added.

Numeral 16 identifies a stop under the fixing device. (Paragraph 0048 of the substitute specification.) As described above, the fixing device 4 is a resilient member that is engaged by the end of the transverse link 14 to basically snap the two together. To prevent the transverse link

14 from dropping past the fixing means 4, the stop 16 is used just below the fixing device 4. An additional reference of this has been made to Fig. 3.

The torsional elements 6 are depicted as rectangular in cross section, but are also described as optional being other shapes (Paragraph 0049 of the substitute specification), and claims 6 and 23 recite them as being torsion rods. A new figure is added in new Fig. 10 to depict this shape of a torsional element. No new matter is added by this figure because it was adequately described in the specification.

The “plurality of additional chain links” recited in claims 13 to 20 were not shown in the original drawings, but are now shown in new Fig. 11.

The “pivoting axis receptacle” of claims 8 and 19 is depicted in Fig. 3 as item 21, for example, and need not be added to the figures. Claims 8 and 19 are adequately supported by the original drawings.

The “means for substantially limiting the fixing means from pivoting” in claim 11 is the stop 16 described above. Claim 11 has been amended to use the term - - stop - - . (Paragraph 0048 of the substitute specification.)

For the foregoing reasons, Applicants respectfully submit that the objections to the drawings have been traversed.

#### **Rejection under 35 U.S.C. §112**

Claims 1 to 24 were rejected under 35 U.S.C. §112, first paragraph, for failing to comply with the enablement requirement. Claims 2, 8, 15, 16, 18, and 24 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention because the examiner asserts

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that the claims contain subject matter which is not described in a way that would enable one skilled in the art to make and use the invention.

One basis for the rejections is related to the objections to the drawings discussed above. Those objections are believed to be traversed, and likewise, this portion of the §112 rejection is believed to be traversed for the reasons stated above.

Claims 2, 8, 15, 16, 18, and 24 were further rejected because the claim 2 term “the direction of an outer wall” lacks antecedent basis. An appropriate amendment has been made.

The term “a pivoting axis” in claim 8 lacked positive recitation in the combination. An appropriate amendment has been made to claim 2 from which claim 8 depends to establish the antecedent.

The claim 15 term “a locking piece receptacle” had not been positively recited. An appropriate amendment has been made.

The claim 24 recitation of “locking means” was unclear before the claims were amended. An appropriate amendment has been made to claim 22 from which claim 24 depends. Claim 22 has been amended to recite that the joint is separable, and the remaining claim terms have been deleted because they were redundant to the terms recited in claim 1 from which claim 22 depends. Thus, the issue regarding antecedent basis has been obviated and claim 24 is allowable.

Claim 24 is believed to satisfy §112, first and second paragraphs, and is allowable.

### **Rejections under 35 U.S.C. §102**

Claims 1 to 3, 7 to 9, and 22 were rejected under 35 U.S.C. §102(b) as being anticipated by *Ehmann et al.*, U.S. Patent 5,996,330. Claims 4 and 5 were rejected under 35 U.S.C. §102(a) as being unpatentable over *Ehmann et al.*

To maintain a rejection under 35 U.S.C. §102(b), all of the elements of each claim must be disclosed in a single reference. The test for anticipation requires a strict, not substantial, identify of corresponding claim elements. *Finisar Corp. v. DirecTV Group, Inc.*, 523 F.3d 1323, 1334-35, 2008 U.S. Appl. LEXIS 8404, 27-28 (Fed. Cir. 2008). Applicants respectfully submit that this standard is not met by *Ehmann et al.*, particularly in view of the amendments to independent claim 1.

*Ehmann et al.* discloses a link for a cable drag chain having side plates and two cross pieces. The ends of the cross pieces fit into receptacles in the side plates. The ends of the cross pieces are inserted into the receptacles by pivoting the side plates outward at their upper ends and pivoting about their lower ends, as seen in Figs. 1, 2, 3, and 7. The pivoting is required so that the free end 26 can clear base side 18. (Col. 4, lines 23 to 42.) The side plate is pivoted back inward to allow the free end 26 into the receptacle 22, where it is locked into place.

This is not a disclosure of the invention recited in the rejected claims because there is no torsional element joined to a fixing means. Arguably, there is a fixing means 40, but there is no torsional element joined to the fixing means which allows the present invention to operate more efficiently and without moving the side plate outward and then back inward to capture the end of the cross-piece.

*Ehmann et al.* is further distinguished by the amendment to claim 1 which recites that the fixing device defines an upper entrance portion for receiving an end portion of the transverse link. *Ehmann et al.*'s locking feature is covered on top and requires the side plate to be moved outward and then back inward to permit the cross-piece to be engaged. Thus, claim 1 as amended is not anticipated by *Ehmann et al.*

### **Rejections under 35 U.S.C. §103(a)**

Claims 4 and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Ehmann et al.* because the examiner asserted that the use of separate fixing means and link plates would have been obvious to one of ordinary skill in the art in view of *Ehmann et al.*'s disclosure of integral parts. Claims 4 and 5 depend from amended claim 1, and are believed to be allowable because the fixing means element recited in amended claim 1 is not present and would not have been obvious to one of ordinary skill in the art.

### **Amendments**

#### *Allowable Claims*

A number of claims are amended to address the §112 rejections as discussed above. Further, allowable claims 6, 20, 23, and 24 have been amended to independent claim format to include all of the limitations of their respective claims from which they depend. Specifically, claim 6 is amended to include the elements of claim 1; claim 20 is amended to include all of the elements of independent claim 1 and intervening claim 13; and claim 23 is amended to include all of the elements of independent claim 1 and intervening claim 22. Claim 24 is amended to include the limitations of claims 1 and 22. These claims are now believed to be allowable.

Claim 24 satisfies 35 U.S.C. §112, first and second paragraphs and is allowable for this reason, as well.

#### *Other Claims*

Additionally, claim 13 was amended for simplicity to simply recite an energy guide chain with plurality of chain links, rather than claiming a single link and adding more later in the same claim.

Claim 13 was also amended to clarify that link plates are in pairs and are connected by a transverse link, as opposed to a possible interpretation of the claim wherein all of the claim link plates were connected together by one or more transverse link. This amendment is supported through the disclosure and figures. Therefore, no new matter is added by this amendment and the claim is allowable over the art of record.

Claim 1 was amended to recite that the fixing “means” is a fixing - - device - - and the “locking means” is a - - lock - -. Applicants respectfully note that these amendments more definitely avoid any interpretation of the claims under 35 U.S.C. §112, paragraph 6. It is also noted that the language of the allowable claims should not be interpreted by 35 U.S.C. §112, paragraph 6 because they do not recite a means plus a function. Appropriate amendments to claims 2, 3, 4, 5, 9, 10, 11, 12, 14, 15, 16, 17, 18, 22, and 24 have been made to make the change to claim 1 consistent throughout. Similarly, claim 19 is amended to replace “pivoting means” with - - pivot - -.

Further, claim 1 has been amended to further distinguish the cited *Ehmann et al.* reference. In particular, claim 1 now recites that the fixing device defines an open upper entrance portion for receiving an end portion of the transverse link. This feature is not disclosed by *Ehmann et al.* because the transverse link member enters the side plate from the side and only after the side plate is pivoted outward as described above. Thus, claim 1 is not anticipated because there is no disclosure of all amended claim 1 elements in *Ehmann et al.*

Claim 1 was also amended to recite that the fixing device is pivotable around the torsional element and a longitudinal axis of the link plate to further describe the axis around which the fixing device pivots.

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Claims 4 and 5 depend from amended claim 1, and are themselves allowable because one skilled in the art would not have modified *Ehmann et al.* to arrive at the fixing device as recited in claim 1. Indeed, such an element is missing from *Ehmann et al.* and could not be added or modified without improper hindsight.

No new matter is added by the amendments, and the claims are respectfully submitted to be allowable.

### **Conclusion**

For the foregoing reasons, Applicants respectfully submit that the claims are all allowable and request that this case be passed to issue.

Respectfully submitted,

  
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